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REFERENCE TITLE: ALTCS; respite care; yearly limitation

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

# HB 2013

Introduced by  
Representative Fillmore

AN ACT

AMENDING SECTION 36-2939, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA LONG-TERM CARE SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 36-2939, Arizona Revised Statutes, is amended to  
3 read:

4           36-2939. Long-term care system services  
5       A. The following services shall be provided by the program contractors  
6 to members determined to need institutional services pursuant to this  
7 article:

8           1. Nursing facility services other than services in an institution for  
9 tuberculosis or mental disease.

10          2. Notwithstanding any other law, behavioral health services if these  
11 services are not duplicative of long-term care services provided as of  
12 January 30, 1993 under this subsection and are authorized by the program  
13 contractor through the long-term care case management system. If the  
14 administration is the program contractor, the administration may authorize  
15 these services.

16          3. Hospice services. For the purposes of this paragraph, "hospice"  
17 means a program of palliative and supportive care for terminally ill members  
18 and their families or caregivers.

19          4. Case management services as provided in section 36-2938.

20          5. Health and medical services as provided in section 36-2907.

21          B. In addition to the services prescribed in subsection A of this  
22 section, the department, as a program contractor, shall provide the following  
23 services if appropriate to members who are defined as developmentally  
24 disabled pursuant to section 36-551 and are determined to need institutional  
25 services pursuant to this article:

26           1. Intermediate care facility services for a member who has a  
27 developmental disability as defined in section 36-551. For purposes of this  
28 article, such a facility shall meet all federally approved standards and may  
29 only include the Arizona training program facilities, a state owned and  
30 operated service center, state owned or operated community residential  
31 settings or existing licensed facilities operated by this state or under  
32 contract with the department on or before July 1, 1988.

33           2. Home and community based services that may be provided in a  
34 member's home or an alternative residential setting as prescribed in section  
35 36-591 or other behavioral health alternative residential facilities licensed  
36 by the department of health services and approved by the director of the  
37 Arizona health care cost containment system administration and that may  
38 include:

39           (a) Home health, which means the provision of nursing services or home  
40 health aide services or medical supplies, equipment and appliances, which are  
41 provided on a part-time or intermittent basis by a licensed home health  
42 agency within a member's residence based on a physician's orders and in  
43 accordance with federal law. Physical therapy, occupational therapy, or  
44 speech and audiology services provided by a home health agency may be  
45 provided in accordance with federal law. Home health agencies shall comply

1 with federal bonding requirements in a manner prescribed by the  
2 administration.

3 (b) Home health aide, which means a service that provides intermittent  
4 health maintenance, continued treatment or monitoring of a health condition  
5 and supportive care for activities of daily living provided within a member's  
6 residence.

7 (c) Homemaker, which means a service that provides assistance in the  
8 performance of activities related to household maintenance within a member's  
9 residence.

10 (d) Personal care, which means a service that provides assistance to  
11 meet essential physical needs within a member's residence.

12 (e) Developmentally disabled day care, which means a service that  
13 provides planned care supervision and activities, personal care, activities  
14 of daily living skills training and habilitation services in a group setting  
15 during a portion of a continuous twenty-four hour period.

16 (f) Habilitation, which means the provision of physical therapy,  
17 occupational therapy, speech or audiology services or training in independent  
18 living, special developmental skills, sensory-motor development, behavior  
19 intervention, and orientation and mobility in accordance with federal law.

20 (g) Respite care, which means a service that provides short-term care  
21 and supervision available on a twenty-four hour basis. **RESPITE CARE SERVICES**  
**MAY NOT EXCEED THREE HUNDRED SIXTY HOURS EACH CALENDAR YEAR.**

22 (h) Transportation, which means a service that provides or assists in  
23 obtaining transportation for the member.

24 (i) Other services or licensed or certified settings approved by the  
25 director.

26 C. In addition to services prescribed in subsection A of this section,  
27 home and community based services may be provided in a member's home, in an  
28 adult foster care home as prescribed in section 36-401, in an assisted living  
29 home or assisted living center as defined in section 36-401 or in a level one  
30 or level two behavioral health alternative residential facility approved by  
31 the director by program contractors to all members who are not defined as  
32 developmentally disabled pursuant to section 36-551 and are determined to  
33 need institutional services pursuant to this article. Members residing in an  
34 assisted living center must be provided the choice of single occupancy. The  
35 director may also approve other licensed residential facilities as  
36 appropriate on a case by case basis for traumatic brain injured members.  
37 Home and community based services may include the following:

38 1. Home health, which means the provision of nursing services or home  
39 health aide services or medical supplies, equipment and appliances, which are  
40 provided on a part-time or intermittent basis by a licensed home health  
41 agency within a member's residence based on a physician's orders and in  
42 accordance with federal law. Physical therapy, occupational therapy, or  
43 speech and audiology services provided by a home health agency may be  
44 provided in accordance with federal law. Home health agencies shall comply

1 with federal bonding requirements in a manner prescribed by the  
2 administration.

3       2. Home health aide, which means a service that provides intermittent  
4 health maintenance, continued treatment or monitoring of a health condition  
5 and supportive care for activities of daily living provided within a member's  
6 residence.

7       3. Homemaker, which means a service that provides assistance in the  
8 performance of activities related to household maintenance within a member's  
9 residence.

10      4. Personal care, which means a service that provides assistance to  
11 meet essential physical needs within a member's residence.

12      5. Adult day health, which means a service that provides planned care  
13 supervision and activities, personal care, personal living skills training,  
14 meals and health monitoring in a group setting during a portion of a  
15 continuous twenty-four hour period. Adult day health may also include  
16 preventive, therapeutic and restorative health related services that do not  
17 include behavioral health services.

18      6. Habilitation, which means the provision of physical therapy,  
19 occupational therapy, speech or audiology services or training in independent  
20 living, special developmental skills, sensory-motor development, behavior  
21 intervention, and orientation and mobility in accordance with federal law.

22      7. Respite care, which means a service that provides short-term care  
23 and supervision available on a twenty-four hour basis. **RESPITE CARE SERVICES**  
**MAY NOT EXCEED THREE HUNDRED SIXTY HOURS EACH CALENDAR YEAR.**

25      8. Transportation, which means a service that provides or assists in  
26 obtaining transportation for the member.

27      9. Home delivered meals, which means a service that provides for a  
28 nutritious meal containing at least one-third of the recommended dietary  
29 allowance for an individual and which is delivered to the member's residence.

30      10. Other services or licensed or certified settings approved by the  
31 director.

32     D. The amount of money expended by program contractors on home and  
33 community based services pursuant to subsection C of this section shall be  
34 limited by the director in accordance with the federal monies made available  
35 to this state for home and community based services pursuant to subsection C  
36 of this section. The director shall establish methods for the allocation of  
37 monies for home and community based services to program contractors and shall  
38 monitor expenditures on home and community based services by program  
39 contractors.

40     E. Notwithstanding subsections A, B, C and F of this section, no  
41 service may be provided that does not qualify for federal monies available  
42 under title XIX of the social security act or the section 1115 waiver.

43     F. In addition to services provided pursuant to subsections A, B and C  
44 of this section, the director may implement a demonstration project to  
45 provide home and community based services to special populations, including

1 disabled persons who are eighteen years of age or younger, medically fragile,  
2 reside at home and would be eligible for supplemental security income for the  
3 aged, blind or disabled or the state supplemental payment program, except for  
4 the amount of their parent's income or resources. In implementing this  
5 project, the director may provide for parental contributions for the care of  
6 their child.

7 G. Subject to section 36-562, the administration by rule shall  
8 prescribe a deductible schedule for programs provided to members who are  
9 eligible pursuant to subsection B of this section, except that the  
10 administration shall implement a deductible based on family income. In  
11 determining deductible amounts and whether a family is required to have  
12 deductibles, the department shall use adjusted gross income. Families whose  
13 adjusted gross income is at least four hundred per cent and less than or  
14 equal to five hundred per cent of the federal poverty guidelines shall have a  
15 deductible of two per cent of adjusted gross income. Families whose adjusted  
16 gross income is more than five hundred per cent of adjusted gross income  
17 shall have a deductible of four per cent of adjusted gross income. Only  
18 families whose children are under eighteen years of age and who are members  
19 who are eligible pursuant to subsection B of this section may be required to  
20 have a deductible for services. For the purposes of this subsection,  
21 "deductible" means an amount a family, whose children are under eighteen  
22 years of age and who are members who are eligible pursuant to subsection B of  
23 this section, pays for services, other than departmental case management and  
24 acute care services, before the department will pay for services other than  
25 departmental case management and acute care services.